

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

MITCHELL H.,

Claimant,

v.

WESTSIDE REGIONAL CENTER,

Service Agency.

OAH No. 2009030920

DECISION

This matter was heard by Amy C. Lahr, Administrative Law Judge with the Office of Administrative Hearings, on May 13, 2009, in Culver City, California.

Linnie H. and Daniel H. represented their son, Mitchell H. (claimant).

Lisa Basiri represented the Westside Regional Center (WRC).

Oral and documentary evidence was received at the hearing. The matter was submitted for decision on May 13, 2009.

ISSUE

Whether WRC should fund claimant's College Internship Program (CIP) in the amount of \$2700.00 per month or \$5233.33 per month?

FACTUAL FINDINGS

1. Claimant is a 19-year-old male who qualifies for regional center services.
2. In August 2008, Claimant's parents requested that WRC fund the CIP program for claimant. The CIP program, located in Berkeley, California, provides a combination of disability support services and academic support services.
3. On August 21, 2008, WRC responded to claimant's father, Daniel H., via electronic mail, as follows:

[WRC] has agreed to share funding for Mitchell H[.], UCI 7611529, to attend College Internship Program, vendor number PB1125, \$2700.00 per month from 8-24-08 through 7-31-09. This determination was based on the cost of what it would be for Mitchell to attend a similar program in our catchment area. . . .

Claimant did not appeal WRC's decision regarding the funding amount.

4. Claimant's father then inquired about the necessary paperwork. WRC informed him that:

There is no paperwork needed from you or Mitchell in order for WRC to send [CIP] the funding. CIP will bill for the \$2700.00 per month (except Aug. 08 I believe that month will be prorated). However, I am sure that they will have paperwork for you to sign in regards to paying the rest of the funding.

The evidence did not establish what paperwork, if any, claimant's parents signed with CIP.

5. On or about October 21, 2008, WRC sent claimant a "Pending Individual Program Plan Addendum Agreement and POS Authorization," which indicated that WRC would pay \$5233.33 per month. This amount was a mistake. WRC service coordinator Kymberly J. Wiedenkiller acknowledged that the document inaccurately noted the payment amount of \$5233.33, and she did not realize this error before she sent it to claimant.

6. Claimant and his father signed and returned the October 21, 2008, form to WRC. Claimant's parents did not question the \$5233.33 amount indicated on this document; they assumed that WRC had purposefully changed the payment amount. Claimant's parents did not verify their assumption with either WRC or CIP.

7. WRC paid CIP \$29,700.00, on claimant's behalf; calculated at \$2700.00 per month from August 24, 2008, through July 31, 2009. This amount is consistent with WRC's policies, and with payments made for similarly situated consumers.

8. Claimant's parents contend that they did not receive any further information regarding payment from CIP or WRC, until February 2009. In February 2009, CIP sent them a bill for \$37,300.00, which represents the remaining balance between the program cost and the \$2700.00 per month paid by WRC. Claimant's parents contacted WRC and requested that WRC fund the entire CIP cost, or \$5233.33 per month.

9. In a letter dated March 2, 2009, WRC denied the request to fund the entirety of the CIP program, or \$5233.33 per month. WRC acknowledged that it had made a mistake by indicating it would pay \$5233.33, in the October 21, 2008, document. WRC maintained that all other documentation clearly stated that it intended to fund no more than \$2700.00 per month.

LEGAL CONCLUSIONS

1. Cause exists to deny claimant's appeal and affirm WRC's denial of funding for full payment, or \$5233.33 per month, of the CIP program, as set forth in Factual Findings 1 through 9, and Legal Conclusions 2 through 4.

2. The Lanterman Act, incorporated under Welfare and Institutions Code section 4500, et seq., acknowledges the state's responsibility to provide services and support for developmentally disabled individuals. (Welf. & Inst. Code, § 4501.)

3. Services provided must be cost effective, and the Lanterman Act requires the regional centers to control costs so far as possible, and to otherwise conserve resources that must be shared by many consumers. (Welf. & Inst. Code, §§ 4512, subdivision (b), 4640.7, subdivision (b), 4651, subdivision (a), 4659, and 4697.)

4. Applying those provisions here, claimant's appeal must be denied. Although WRC admittedly erred in stating the payment amount of \$5233.33 on one document, the evidence established that WRC intended to pay \$2700.00 per month. Its letter of approval clearly indicated that WRC agreed to pay \$2700.00 per month. WRC's intent is further supported by WRC's policies, and payments for similarly situated consumers. Moreover, claimant's parent's reliance on the erroneous monetary amount was not reasonable under the circumstances. To the extent that they received one document which contradicted all other documentation, they could have further inquired with either WRC or CIP to verify the correct amount.

ORDER

Westside Regional Center's decision denying claimant's request for \$5233.33 per month funding for the College Internship Program is affirmed. The appeal by claimant Mitchell H. is denied.

DATED: May 20, 2009

_____/s/_____
AMY C. LAHR
Administrative Law Judge
Office of Administrative Hearings

NOTICE

This is the final administrative decision. Both parties are bound by this decision. Either party may appeal this decision to a court of competent jurisdiction within 90 days.